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No. 91

In the Supreme Court of the United States

OCTOBER TERM, 1959

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

ROY FRUEHAUF, FRUEHAUF TRAILER CO., BURGE SEYMOUR, ASSOCIATED TRANSPORT, INC., BROWN EQUIPMENT AND MANUFACTURING CO., AND DAVE BECK,

Defendants-Appellees.

On Appeal from the United States District Court for the Southern District of New York

MOTION TO AFFIRM OF APPELLEE DAVE BECK

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FRAYN LETTERPRESS

No. 941

In the Supreme Court of the United States

OCTOBER TERM, 1959

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

v.

ROY FRUEHAUF, FRUEHAUF TRAILER CO., BURGE SEYMOUR, ASSOCIATED TRANSPORT, INC., BROWN EQUIPMENT AND MANUFACTURING CO., AND DAVE BECK,

Defendants-Appellees.

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ROY FRUEHAUF, FRUEHAUF TRAILER CO., BURGE SEYMOUR, ASSOCIATED TRANSPORT, INC., BROWN EQUIPMENT AND MANUFACTURING CO., AND DAVE BECK,

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On Appeal from the United States District Court for the Southern District of New York

MOTION TO AFFIRM OF APPELLEE DAVE BECK

Appellee Dave Beck moves that the final judgment of the District Court be affirmed on the ground that the question presented is so unsubstantial as not to warrant further argument.

OPINION BELOW

The ruling of the District Court (R. 80-81; Appendix A of Jurisdictional Statement), which dismissed the indictment herein, has not been reported.

JURISDICTION

The jurisdictional requisites are adequately set forth in the Jurisdictional Statement.

QUESTION PRESENTED

Section 302 of the Labor Management Relations Act of 1947 made it unlawful for an employer to "pay or deliver" to a representative of any of his employees in an industry affecting interstate commerce, or for such representative to "receive or accept" from the employer, "any money or other thing of value." The question presented is whether a loan of money, evidenced by a promissory note and repaid with interest, comes within the foregoing prohibitions.

STATUTES INVOLVED

The pertinent provisions of Section 302 of the Labor Management Relations Act of 1947, 61 Stat. 157, 29 U.S.C.A. 186, and Section 505 of the Labor Management Report and Disclosure Act of 1959, 73 Stat. 537, which amended said Section 302, are set forth in the Jurisdictional Statement at pp. 2-3.

STATEMENT

Defendant Appellee Dave Beck hereby adopts the statement of Defendant-Appellees Roy Fruehauf, Burge Seymour, Associated Transport, Inc. and Brown Equipment and Manufacturing Co. as set

forth in their motion to affirm and in the Statement of Fruehauf Trailer Co. as set forth in its motion to affirm.

Appellee Dave Beck was charged under the second count of the two-count indictment here involved under Section 302(b) of the Labor Management Relations Act of 1947. Aside from that technical difference, all of the issues as to this appellee are identical with the issues raised by the other appellees.

ARGUMENTS

Appellee has read and knows the contents of the brief and argument of the other appellees heretofore filed. Such motions and argument correctly set forth the facts and the law. Appellee Dave Beck therefore adopts each of such motions and arguments for and on his own behalf with respect to the second count of the indictment.

CONCLUSION

It is respectfully submitted that the judgment of the District Court should be affirmed.

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